



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Transit Administration**

#### **Pilot Program for Nonprofit Cooperative Procurements**

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice; Request for expressions of interest to participate.

**SUMMARY:** The Federal Transit Administration (FTA) announces the establishment of the Pilot Program for Nonprofit Cooperative Procurements (Pilot Program) and solicits expressions of interest from eligible nonprofit entities to participate. The Pilot Program is aimed at increasing innovation, promoting efficiency, and demonstrating the effectiveness of cooperative procurement contracts for rolling stock and related equipment administered by eligible nonprofit entities.

**DATES:** Expressions of interest to become one of the selected nonprofit entities in the Pilot Program for Nonprofit Cooperative Procurements must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Expressions of interest may be submitted via U.S. mail, electronic mail, or fax. Mail submissions must be addressed to the Office of Acquisition Management, Federal Transit Administration, 1200 New Jersey Avenue SE, Room E42-332, Washington, D.C. 20590. E-mail submissions must be sent to *NonprofitPilotProgram@dot.gov*. Facsimile submissions must be submitted to the attention of Nonprofit Pilot Program at 817-978-0575. If there is an insufficient number of eligible nonprofit entities that meet the requirements of the Pilot Program, FTA may solicit additional interest in the future.

**FOR FURTHER INFORMATION CONTACT:** For program matters, James Harper, FTA Office of Acquisition Management, telephone (202) 366–1127 or email *James.Harper@dot.gov*. For legal matters, Eldridge Onco, FTA Office of Chief Counsel, telephone (817) 978-0557 or email *Eldridge.Onco@dot.gov*.

**SUPPLEMENTARY INFORMATION:**

*Table of Contents*

- I. Background**
  - II. Pilot Program Description**
  - III. Eligibility Information**
  - IV. Expression of Interest Submission Process**
  - V. Application Review**
  - VI. Pilot Program Administration**
- 
- I. Background**

Section 3019 of the Fixing America’s Surface Transportation (FAST) Act, Pub. L. 114-94, permits FTA grantees to purchase rolling stock and related equipment from cooperative procurement contracts entered into by either a State government or an eligible nonprofit entity and 1 or more vendors. Section 3019 was designed to address the high purchasing costs attributable to the relatively small size of the procurements for rolling stock and related equipment, particularly for small and rural public transportation providers. Many States currently have authority to enter into cooperative purchasing contracts, also known as “state schedules.” However, such authority was not previously extended to nonprofit entities.

The statute creates a pilot program to demonstrate the effectiveness of cooperative procurement contracts administered by nonprofit entities. These contracts are intended to be separate from State cooperative purchasing contracts and provide another opportunity for public transportation systems of all sizes to enhance their purchasing options.

## **II. Pilot Program Description**

Section 3019(b)(3) establishes a Pilot Program to demonstrate the effectiveness of cooperative procurement contracts administered by eligible nonprofit entities. The objective of this innovative procurement approach is to enhance the purchasing options for all public transportation systems. FTA plans to assess the benefits and effectiveness of the Pilot Program to assist grantees in developing more efficient and innovative approaches to acquiring rolling stock and related equipment.

A cooperative procurement contract in the Pilot Program means a contract between an eligible nonprofit entity and 1 or more vendors under which the vendors agree to provide an option to purchase rolling stock and related equipment to multiple grantee participants. Where permitted by State law, a grantee may participate in a cooperative procurement contract under the Pilot Program without regard to whether the grantee is located in the same State as the lead nonprofit entity. Participation by FTA grantees in a nonprofit cooperative procurement under the Pilot Program is voluntary.

Nonprofit entities selected for the Pilot Program may enter into a cooperative procurement contract for an initial term of not more than 2 years. The contract may include not more than 3 optional extensions for terms of not more than 1 year each. Thus, the contract may be in effect for a total period of not more than 5 years, including each extension.

A lead nonprofit entity selected for the Pilot Program shall develop the terms of the contract and the contract must be solicited and awarded in accordance with all applicable FTA and Federal standards, requirements, and policies. The applicable FTA and Federal procurement standards, requirements, and policies, including FTA's Buy America requirements, are set forth in 49 U.S.C. chapter 53, FTA's implementing regulations, FTA's Master Agreement, 2 CFR parts 200 and 1201, and FTA Circular 4220.1F.

### **III. Eligibility Information**

Section 3019 specifies that FTA must select no fewer than 3 eligible nonprofit entities for the Pilot Program. Per the FAST Act, an eligible nonprofit entity for the Pilot Program may be either a nonprofit cooperative purchasing organization that is not an FTA grantee or subgrantee, or a consortium of eligible nonprofit cooperative purchasing organizations. A local government or a tribal government is not an eligible nonprofit entity under the Pilot Program.

Successful entities are expected to develop and issue a solicitation for a cooperative procurement contract within 60 days of their selection into the Pilot Program. The solicitation of a contract must be conducted through a competitive process that will comply with FTA's full and open competition standard and Federal and FTA procurement requirements and policies. To promote the fullest opportunity for grantees to participate in the Pilot Program, FTA anticipates that cooperative procurement contracts will be open and available to all FTA grantees. To address special circumstances, however, FTA may consider a cooperative procurement contract in the Pilot Program which may be limited only to recipients in one or more of FTA's grant programs.

A lead nonprofit entity in the Pilot Program may charge participants in the contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than 1 percent of the total value of the participant's order placed on the contract. The 1 percent charge may either be incorporated into the price of the rolling stock and related equipment offered under the cooperative procurement program or directly charge the grantee participants for the costs, but not both. If the nonprofit directly charges the grantee participants for the costs, it cannot charge any individual grantee more than 1 percent of the total value of the grantee's order.

#### **IV. Expression of Interest Submission Process**

Interested nonprofit entities for the Pilot Program must submit the required information by U.S. mail, email or facsimile by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, as specified in the **DATES** section of this notice, above. FTA reserves the right to request additional clarifying information from any and all applicants before making a selection to participate in the Pilot Program. Nonprofit entities wishing to participate in the Pilot Program must submit an expression of interest to FTA no longer than 10 pages in length including any supporting documentation.

Interested nonprofit entities must provide the following information to FTA in narrative format or as otherwise instructed:

- a. A description of the procurement experience held by the personnel in the applicant's organization, including sufficient information to demonstrate the

ability to successfully carry out and administer a cooperative procurement contract or contracts;

- b. A description of the familiarity of the applicant's personnel with Federal and FTA procurement standards, requirements, and policies;
- c. A description to show how the applicant's program will be administered. This description should include, but not be limited to, the process by which vendors will be selected for the cooperative procurement contract, the process by which grantee participants will be registered in the program and the process for grantee participants to place orders on a cooperative procurement contract.
- d. The articles of incorporation of the applicant to demonstrate that the purpose of the nonprofit organization is consistent with the purpose of the Pilot Program;
- e. Evidence that the applicant possesses adequate financial capacity to successfully administer a cooperative procurement contract or contracts;
- f. Documentation that the applicant is a nonprofit entity in good standing in the State of incorporation; and,
- g. Certification that the applicant is not indebted to a Federal or State taxing authority.

## **V. Application Review**

FTA will evaluate the submissions to determine which applicants demonstrate they have the capability to effectively enter into and administer a cooperative procurement contract. FTA will select no fewer than three geographically diverse applicants from the submitted expressions of interest to be part of the Pilot Program,

except that if there are less than three applicants able to meet the requirements of the Pilot Program, FTA may solicit additional interest in the future. FTA will evaluate the experience, legal, technical, and financial capacity of interested nonprofit entities to implement the Pilot Program successfully.

## **VI. Pilot Program Administration**

### **1. Notice**

After an announcement by the FTA Administrator or designee of the final selection(s) posted on the FTA Web site, FTA may publish final selections for the Pilot Program in the *Federal Register*.

All information submitted as part of or in support of the Pilot Program application shall be publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the submission includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission “Contains Confidential Business Information (CBI);” (2) mark each affected page “CBI;” and (3) highlight or otherwise denote the CBI portions. FTA protects such information from disclosure to the extent allowed under applicable law. If FTA receives a Freedom of Information Act (FOIA) request for the information, FTA will follow the procedures described in the U.S. DOT FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Should FTA receive an order from a court of competent jurisdiction ordering the release of the information, FTA will provide the applicant timely notice of such order to allow the

applicant the opportunity to challenge such an order. FTA will not challenge a court order on behalf of an applicant.

## 2. Pilot Program Administration and Reporting Requirements

The Pilot Program is not funded with Federal funds; selected nonprofit entities may charge the grantee participants in the cooperative procurement contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than 1 percent of the contract price. The selected nonprofit entity may incorporate the cost into the price of the contract or directly charge the grantee participants for the cost, but not both.

To achieve a comprehensive understanding of the utility and effectiveness of the Pilot Program, FTA, or its designated independent evaluator, will require access to project data. Selected nonprofit entities should be prepared to collect and maintain data related to participating vendors, participating grantees, and the quantity and price of rolling stock and related equipment procured by grantees through the cooperative procurement.

## 3. Expiration of Pilot Program

After selection of eligible nonprofit entities for the Pilot Program, the Pilot Program will expire six years from the publication of this notice in the *Federal Register* or when the contract with the longest term, including option periods, awarded by a nonprofit entity in the Pilot Program expires, whichever date is earlier.

**Matthew J. Welbes,**

*Executive Director.*



